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EXAMINER

GRAHAM, MARK S

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UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte LAWRENCE P. LAFALCE

Appeal 2008-3687
Application 10/764,332
Technology Center 3700

Decided: January 26, 2009

Before, DONALD, E. ADAMS, DEMETRA J. MILLS, and
LORA M. GREEN, *Administrative Patent Judges*.

MILLS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134. The Examiner has rejected the claims for anticipation and obviousness. We have jurisdiction under 35 U.S.C. § 6(b).

STATEMENT OF CASE

The following claim is representative.

16. A golf course comprising a series of tee-areas T(1) - T(N), each containing a golf tee and a series of green-areas G(1) - G(N), each containing a golf hole;

the tee-areas and the green-areas defining a first set of sequential fairway paths F1(1) - F1(N) between each tee-area and a target green-area in a first direction; and

the tee-areas and the green-areas also defining a second set of sequential fairway paths F2(1) - F2(N) between each tee-area and a target green-area in a second opposite direction;

wherein a first golf game may be played along the first set of fairway paths and a second golf game may be played along the second set of fairway paths;

wherein the first direction is clockwise and the second direction is counterclockwise.

wherein the tee-areas comprise eighteen tee-areas T(1) - T(18), the green-areas comprise eighteen green-areas G(1) - G(18);

wherein the first set of fairway paths comprise the paths defined by T(1) to G(1), T(2) to G(2), T(3) to G(3), T(4) to G(4), T(5) to G(5), T(6) to G(6), T(7) to G(7), T(8) to G(8), T(9) to G(9), T(10) to G(10), T(11) to G(11), T(12) to G(12), T(13) to G(13), T(14) to G(14), T(15) to G(15), T(16) to G(16), T(17) to G(17), and T(18) to G(18);

wherein the second set of fairway paths comprise the paths defined by T(1) to G(17), T(18) to G(16), T(17) to G(15), T(16) to G(14), T(15) to G(13), T(14) to G(12), T(13) to G(11), T(12) to G(10), T(11) to G(9), T(10) to G(8), T(9) to G(7), T(8) to G(6), T(7) to G(5), T(6) to G(4), T(5) to G(3), T(4) to G(2), T(3) to G(1), and T(2) to G(18);

wherein the tee-areas T(1) - T(18) and the green-areas G(1) - G(18) are arranged in a perimeter region around a central non-course region.

17. A golf course as set forth in claim 16, wherein the perimeter region surrounds the central non-course region in a donut-like manner.

18. A golf course as set forth in claim 16, wherein the perimeter region surrounds the central non-course region in a horseshoe-like manner.

19. A golf course as set forth in claim 16, wherein a club house, a parking lot, a practice green, and/or a tennis court are located on the central non-course area.

20. A golf course as set forth in claim 19, wherein the first tee-area T(1) is the initial tee-area and the last green-area G(18) is the final green-area regardless of whether the first golf game is being played in the first direction or the second golf game is being played in the second direction.

Cited References

Dumas	US 6,036,606	Mar. 14, 2000
Kokai	JP 52-020141	Feb. 15, 1977

Grounds of Rejection

1. Claims 16-18 stand rejected 35 U.S.C. § 102(b) as anticipated by Dumas.
2. Claims 19 and 20 stand rejected 35 U.S.C. § 103(a) as obvious over Dumas in view of Kokai.

Anticipation

1. Claims 16-18 stand rejected 35 U.S.C. § 102(b) as anticipated by Dumas.

ISSUE

The Examiner contends that the method claims are anticipated by Dumas and that the central area of the grid course of Dumas is a non-course area. (Ans. 3.)

Appellant contends that the central area and “small areas” of the grid course of Dumas are considered part of the course and are not non-course areas. (App. Br. 10-11.)

The issue is whether Dumas discloses that the tee-areas T(1) - T(18) and the green-areas G(1) - G(18) are arranged in a perimeter region around a central non-course region.

FINDINGS OF FACT

1. As disclosed in Dumas, Fig. 7 reproduced below, as annotated by the Examiner in the Answer, page 4, a golf course may be set up in the manner played around the perimeter of the grid, either clockwise or counter clockwise.

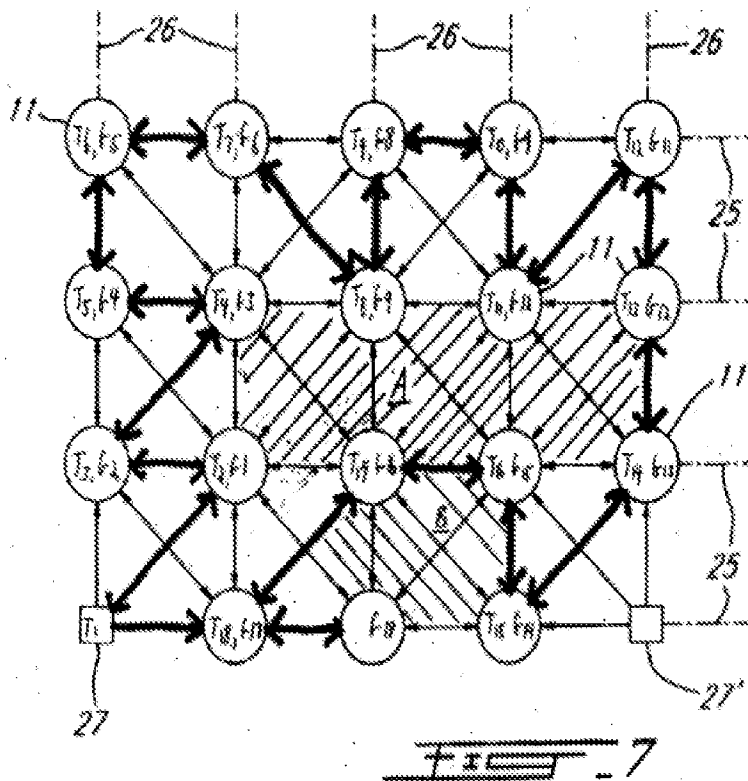


Figure 7 of Dumas shows a grid outline of a golf course, as annotated by the Examiner, and a manner in which the grid course can be played, which includes a non-course area in the center of the course grid.

2. In Figure 7 of Dumas, a green and a tee or tees are located at each node. The areas of the course not being played or the areas between fairways may be considered the central non-course region. (Ans. 3.)
3. The Examiner finds that Figure 7 evidences how a golf course comprising 18 tee areas T1 to T18 and 18 green areas G1 – G18 as claimed may be laid out and played with non-course regions such that a doughnut or horseshoe is formed around the non-course region. (Ans. 3.)
4. In Figure 7, as annotated by the Examiner, “[t]he area shaded A is considered a non-course region on a doughnut shaped golf course layout, and the area shaded B is considered the non-course region on a horseshoe shaped golf course layout.” (*Id.*)
5. Dumas locates a clubhouse at an edge of the course. (Dumas, Fig. 1.)
6. The Examiner finds that it is commonly known that the clubhouse may be centrally located or edge located depending on the geography of the particular terrain where the course is built. (Ans. 5.)
7. Kokai discloses one example of a centrally located clubhouse. (Kokai translation, Fig.)
8. The Examiner concludes that “[i]t would have been obvious to one of ordinary skill in the art to so locate Dumas’ clubhouse if it was desired to provide a more central location on the golf course or to better fit the geography of the particular golf course.” (Ans. 5.)
9. Regarding claim 20, the Examiner finds that,

if T1 is located at the T18, G17 node as depicted above rather than point 27, T1 may be the first tee-area and G18 may be the final green-area whether the course is played in the first direction or the second direction as can be clearly seen in the above rendering of Dumas’ Fig. 7 golf course.

(Ans. 5.)

10. A horseshoe is defined as a U-shaped object similar to a horseshoe.

<http://www.thefreedictionary.com/horseshoe>.

11. Appellant separately argues claims 16, 17 and 20. Claim 18 is not separately argued and thus falls with claim 16. (App. Br. 11-12.)

PRINCIPLES OF LAW

“A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference.” *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994). “Every element of the claimed invention must be literally present, arranged as in the claim.” *Richardson v. Suzuki Motor Co., Ltd.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

ANALYSIS

With respect to claim 16, Appellant’s first argument is that if 18 holes of golf are played on Dumas’ arrangement the central area could not be a non-course area. (App. Br. 10-11.)

In response, the Examiner directs attention to Dumas’ Fig. 7, which “shows that 18 holes can be played clockwise and counterclockwise as claimed while leaving a non-course area, an area not part of the 18 hole course, at a central location which allows for a doughnut or horseshoe shaped configuration.” (Ans. 5.)

We agree with the Examiner and find that when the course is played using perimeter tees and greens specified by the Examiner on the annotated grid, the central portion of the course is a non-course area.

Appellant's second argument is that smaller areas between the fairways of different holes may not be considered non-course regions because no visible or invisible boundaries separate them from the course. (App. Br. 11.)

We note that the claims do not require that the non-course areas be separated with visible or invisible boundaries. As indicated above, when the course of Dumas is played as annotated by the Examiner, the central portion has a non-course area. The rejection of claims 16 is affirmed. Claim 18 falls with claim 16.

Claim 17

Appellant contends that if the course is played clockwise and/or counterclockwise, the course could not and does not surround a central region in a doughnut-like or horseshoe-like manner. (App. Br. 11.)

We have found herein that if the course is played clockwise and/or counterclockwise on the grid as annotated by the Examiner, the course has a central non-course region, thus the perimeter region surrounds the central non-course region in a donut-like manner.

In addition, a horseshoe is defined as a U-shaped object similar to a horseshoe. (FF10.) The region B in the Examiner annotated version of Fig. 7 herein is a region representing the opening of a horseshoe pattern in which the course of Dumas may be played. (FF3.)

In view of the above, the rejection of claim 17 is affirmed.

CONCLUSION OF LAW

In view of the above, we conclude that Dumas discloses that the tee-areas T(1) - T(18) and the green-areas G(1) - G(18) are arranged in a perimeter region around a central non-course region. Appellant has failed to rebut the Examiner's prima facie case of anticipation, and the rejection of claims 16-18 is affirmed.

2. Claims 19 and 20 stand rejected 35 U.S.C. § 103(a) as obvious over Dumas in view of Kokai.

ISSUE

Appellant contends that Dumas and Kokai do not teach a clubhouse in a central non-course area. (App. Br. 11.)

The Examiner contends there is motivation to combine Dumas and Kokai to provide a central clubhouse in a non-course area. (Ans. 5.)

The issue is whether the cited references disclose or suggest a clubhouse in a central non-course area.

PRINCIPLES OF LAW

In making an obviousness determination over a combination of prior art references, it is important to identify a reason why persons of ordinary skill in the art would have attempted to make the claimed subject matter.

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, ___, 127 S. Ct. 1727, 1741 (2007). When making such a determination, the scope of the prior art and level of ordinary skill must be considered. *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966).

ANALYSIS

With respect to claims 19 and 20, Appellant contends that any modification of Dumas to include a clubhouse in the central region would violate the objective of Dumas to have a “predetermined web pattern.” (App. Br. 11.)

Kokai describes a clubhouse in a central non-course area. (FF7.) In one embodiment, Dumas describes a golf course played with a central non-course area. (FF 2-3.) Thus, a clubhouse could be positioned in a non-course area.

In our view, the combined references suggest that a clubhouse may be placed in a central non-course area of a golf course. The obviousness rejection of claim 19 is affirmed.

Claim 20

Appellant contends that “Dumas expressly teaches locating its starting tee area, its putting green area at predetermined positions with respect to one another when it is desirable that they be close to a golf club building to provide services to the golf players.” (App. Br. 12.)

Regarding claim 20, the Examiner finds that if T1 is located at the T18, G17 node as depicted above rather than point 27, T1 may be the first tee-area and G18 may be the final green-area whether the course is played in the first direction or the second direction as can be clearly seen in the above rendering of Dumas' Fig. 7 golf course. (FF9.) Appellant has failed to rebut this argument of the Examiner. The rejection of claim 20 is affirmed.

CONCLUSION OF LAW

In view of the above, we conclude that the combination of Dumas and Kokai teach a clubhouse in a central non-course area. Appellant has failed to provide a persuasive rebuttal to the Examiner's prima facie case of obviousness, and the rejection of claims 19 and 20 is affirmed.

SUMMARY

The anticipation and obviousness rejections are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

cdc

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